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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,065	11/26/2003	Elroy T. Cantrell	ELC500/4-001DIVCONUS/3600	8632
21322	7590	11/15/2005		
MARK A OATHOUT 3701 KIRBY DRIVE, SUITE 960 HOUSTON, TX 77098			EXAMINER DEMILLE, DANTON D	
			ART UNIT	PAPER NUMBER
			3764	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TJL

**Office Action Summary**

Application No.

10/723,065

Applicant(s)

CANTRELL ET AL.

Examiner

Danton DeMille

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 49-57, 59, 60, 62, 63 and 97-113 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 49-57, 59, 60, 62, 63 and 97-113 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/26/03, 6/21/04</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

**DETAILED ACTION*****Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. **Claims 49-57, 59, 60, 62, 63, 97-113 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,174,295 in view of Lurie et al. 5,645,522.**

3. Lurie teaches the details of the manual chest compression means including a chest plate 231 removably coupled to the manual chest compression device 200 and a palm grip 204. It would have been obvious to one of ordinary skill in the art to modify the patent claims to provide the details of the compression applying means as taught by Lurie to be able to apply the compression force to the patient. Regarding the display, Lurie teaches a display to provide feedback to the user of the compression force. The patent claims describe the stroke rate, compression force and tilt condition and it would have been obvious to provide a display to display these parameters to the user.

*Claim Objections*

4. **Claim 100 is objected to because of the following informalities: claim 100 appears to be a duplicate of claim 99. Appropriate correction is required.**

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 49-52, 54-57, 59, 60, 62, 63, 97, 99, 100, 103, 106, 107, 109-113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lurie et al. 5,645,522 in view of Kelly 5,496,257.**
7. Lurie teaches the chest plate 231 removably coupled by the stem structure 206. Lurie teaches a display 224 to display the amount of force and whether or not the force application cycle has been completed. Kelly teaches an electronic feedback display for providing additional information can be provided the user to assure of proper CPR. Audible and visual means are provide to indicate the proper rate of compressions and when a preset number of compressions are reached so that ventilation can occur. It would have been obvious to one of ordinary skill in the art to modify Lurie to provide an electronic display and additional feedback to the user as taught by Kelly to as to assure a proper method of applying CPR.
8. **Claims 53, 98 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 49 above, and further in view of Ingenito et al.**

9. Ingenito teaches column 16, lines 28-68, microswitches S3, S6, S9, S12 are used to provide proper feedback to indicate a tilt condition of the applied force. It would have been obvious to one of ordinary skill in the art to further modify Lurie to include microswitches as taught by Ingenito so that a tilt condition can be displayed to the user to assure a proper application of the applied force.

**10. Claims 101 and 104 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 97 above, and further in view of Schock et al.**

11. Schock teaches the convention of also applying abdominal pressure during CPR to help force blood from the abdomen into the chest during diastole. It would have been obvious to one of ordinary skill in the art to further modify Lurie to include an abdominal compression device as taught by Schock to improve the CPR method by forcing blood from the abdomen into the chest.

**12. Claims 49, 63, 97, 102, 105 and 108 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly et al. 5,738,637 in view of Kelly 5,496,257.**

13. Kelly '637 teaches a manual chest compressing device including a palm grip 16, 18, 262, 264, 416, 418 and a display 74 for displaying the amount of force to the user. Kelly '257 teaches an electronic feedback display for providing additional information can be provided the user to assure of proper CPR. Audible and visual means are provide to indicate the proper rate of compressions and when a preset number of compressions are reached so that ventilation can occur. It would have been obvious to one of ordinary skill in the art to modify Lurie to provide an electronic display and additional feedback to the user as taught by Kelly to as to assure a proper method of applying CPR.

14. Regarding claims 102 and 105, Kelly '637 teaches an abdominal binding device 40.


15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached on M-Th from 8:30 to 6:00. The examiner can also be reached on alternate Fridays.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson, can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

10 November 2005

  
Danton DeMille  
Primary Examiner  
Art Unit 3764